

Count II of Plaintiff's complaint alleges wrongful termination based on the "whistle blowing" exception to the employment at will doctrine. "[I]n order to effectuate the clear mandate of public policy implicated in a given situation, it is axiomatic that the at-will employee report of 'blow the whistle' to the proper authorities, which, depending on the circumstances, would include the employer, 'internal whistleblowing,' and/or a third party authority, 'external whistleblowing.'" Faust v. Ryder Commercial Leasing & Services, 954 S.W.2d 383, 391 (Mo. App. W.D. 1997). Defendants argue that plaintiff did not express his objections to "proper" outside authorities and therefore dismissal is mandated.

In the Complaint, Plaintiff asserts that he "set forth several objections." (Complaint, at para. 11). This assertion is not limited, as Defendants suggest, to partners and alleged wrongdoers. Discovery may reveal that Plaintiff reported the violations to proper authorities such that the requirements of a claim for wrongful discharge would be satisfied. It is not clear to the court that no relief could be granted under any set of facts that could be proved consistent with the allegations in the complaint. Hishon v. King & Spalding, 467 U.S. 69, 71, 104 S.Ct. 2229, 81 L.Ed.2d 59 (1984). Accordingly, Defendants' Motion for Judgment on the Pleadings is DENIED.

IT IS SO ORDERED

/s/ DEAN WHIPPLE
Dean Whipple
United States District Judge

DATE: July 8, 2005